



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|----------------------|------------------|
| 09/513,015 | 02/25/2000 | Robert J. Block | 83000.1135;P4722/ARG | 7018 |

7590

02/11/2003

Brian M. Berliner, Esq.
O'MELVENY & MYERS LLP
400 South Hope Street
Los Angeles, CA 90071-2899

EXAMINER

PRIETO, BEATRIZ

ART UNIT

PAPER NUMBER

2142

DATE MAILED: 02/11/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/513,015

Applicant(s)

BLOCK ET AL.

Examiner

B. Prieto

Art Unit

2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-13 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 1-8, drawn to a method of making a computational service available, classified in class 709, subclass 227.

II. Claims 9-13, drawn to a method of making computational services available, classified in class 709, subclass 226.

2. The inventions are distinct, each from the other because of the following reasons: Inventions II and I are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable.

In the instant case, invention I has separate utility such as it is usable in a method of making a computational service available, the method includes: initiating a communication by broadcasting a secure message between a unit and a first server; said first server sending a token to said plurality of servers, said plurality of servers responding to said first server with session information associated with said token; and redirecting said unit to a second server having a session located on one of a plurality of servers, said session associated with a token, classified in class 709, subclass 226.

Invention II has separate utility such as it is usable in a method of making a computational service available, the method includes: a first server receiving a secure host message sent repeatedly from a second server broadcast to a plurality of servers, where said host message includes updating status in said network topology based on a relationship between multiple host messages; and said first server forming a network topology using said host message, classified in class 709, subclass 220.

Invention I lacks the features, elements and functionalities claimed on Invention II. Invention I is a separate and distinct than Invention II, and therefore inventions require separate and distinct searches. See MPEP 806.05(d).

3. Because these inventions are distinct for the reasons given above and because the search required for each group is different and not co-extensive for examination purpose because these groups would require different searches on PTO's classification class and subclass e.g. a) the Group I search (1-8) would require use of search classified in Class 709, subclasses 226, (which would not required for the Group II); b) the Group II search (claims 9-13) would require use of search Class 709, subclasses 220, (which would not be required for the Group I, therefore restriction for examination purposes as indicated is proper.

4. Restriction is required under 35 U.S.C. 121 to one of the above-identified patentably distinct groups of designs. A reply to this requirement must include an election of a single group for prosecution on the merits, even if this requirement is traversed, 37 CFR 1.143. Any reply that does not include election of a single group will be held non-responsive. Applicant is also requested to direct cancellation of all drawing figures and the corresponding descriptions which are directed to the non-elected.

5. Should applicant traverse this requirement on the grounds that the groups are not patentably distinct, applicant should present evidence or identify such evidence now of record showing the groups to be obvious variations of one another. If the groups are determined not to be patentably distinct and they remain in this application, any rejection of one group over prior art will apply equally to all other embodiments. See Ex parte Appeal No. 315-40, 152 USPQ 71 (Bd. App. 1965). No argument asserting patentability based on the differences between the groups will be considered once the groups have been determined to comprise a single inventive concept.

6. In view of the above requirement, action on the merits is deferred pending compliance with the requirement in accordance with Ex parte Heckman, 135 USPQ 229 (P.O. Super. Exam. 1960).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prieto, B. whose telephone number is (703) 305-0750. The Examiner can normally be reached on Monday-Friday from 6:00 to 3:30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's Supervisor, Mark R. Powell can be reached on (703) 305-9703. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-6606. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3800/4700.

Any response to this action should be mailed to:
Commissioner of Patents and Trademarks
Washington, D.C. 20231

or Faxed to:

(703) 746-7239, for Official communications and entry

Or:

(703) 746-7240, for Non-Official or draft communications, please label
"PROPOSED" or "DRAFT".

Art Unit: 2142


Or Telephone:

(703) 306-5631 for TC 2100 Customer Service Office.

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA., Fourth Floor (Receptionist), further ensuring that a receipt is provided stamped "TC
2100".



B. Prieto
TC 2100
Patent Examiner
January 28, 2003


DAVID WILEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100